

HOUSE No. 3908

Text of an amendment recommended by the committee on Ways and Means to the Senate Bill protecting lakes and ponds from aquatic nuisances (Senate, No. 1904). January 30, 2012.

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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The Committee on Ways and Means recommends that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:-

1 “SECTION 1. Chapter 21 of the General Laws is hereby amended by striking out section 37B,
2 as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

3 Section 37B. (a) For the purposes of this section, the following terms shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 ‘Aquatic nuisance’, undesirable or excessive substances or populations that interfere with the
6 recreational or ecological potential of a body of water or interfere with the natural resources
7 thereof that shall include, but not be limited to, rooted aquatic vegetation and algae populations,
8 dreissena mussels, spiny water fleas and any other invasive species that the commissioner
9 declares to be an aquatic nuisance.

10 ‘Boat transporter’, any vehicle combination including a low-boy boat transporter, a stinger-
11 steered boat transporter or a truck-trailer boat transporter, designed and used specifically for the
12 transport of assembled boats and boat hulls; provided, however, that the boats may be partially
13 disassembled to facilitate transportation.

14 ‘Inland waters’, all waters within the jurisdiction of the commonwealth other than coastal waters.

15 ‘Low-boy boat transporter’, a semi-trailer unit wherein the trailer is designed and used
16 specifically for the transport of assembled boats and hulls; provided, however, that the top
17 surface of the deck platform of such semi-trailer shall not be more than 36 inches above the
18 surface on which the wheels of the vehicle rest.

19 ‘Stinger-steered boat transporter. A boat transporter configured as a semitrailer combination
20 wherein the fifth wheel is located on a drop frame located behind and below the rear-most
21 axle of the power unit.

22 ‘Truck-trailer boat transporter’, a boat transporter combination consisting of a truck towing a
23 trailer typically using a ball and socket connection and the trailer axle thereon is located
24 substantially at the trailer center of gravity, rather than at the rear of the trailer, so as to maintain
25 a downward force on the trailer tongue.

26 ‘Vessel’, shall have the same meaning as defined in section 1 of chapter 90B.

27 (b) The department shall establish and maintain an aquatic nuisance control program. The
28 aquatic nuisance control program shall receive and respond to aquatic nuisance complaints; work
29 with municipalities, local interest organizations and agencies to develop long-range programs
30 regarding aquatic nuisance controls; work with federal, state and local governments to obtain
31 funding for aquatic nuisance control programs; and administer the grant program under sections
32 37C and 37D.

33 (c) The department shall adopt regulations, in consultation with the department of fish and game,
34 to enable the aquatic nuisance control program to suppress, eradicate, control and otherwise
35 mitigate or reduce the risk of the spread of aquatic nuisances.
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37 (d) The department shall study and promote improved methods of suppressing, controlling or
38 otherwise mitigating or reducing the risk of the spread of aquatic nuisances and shall act in
39 cooperation with federal and state agencies engaged in the study or control of aquatic nuisances.

40 (e) The department may enter into contracts for the study, control and eradication of aquatic
41 nuisances on behalf of the commonwealth; act in cooperation with any state agency, person or
42 subdivision of the commonwealth, any other state, the United States or any foreign government;
43 issue orders or establish quarantines to suppress or eradicate aquatic nuisances; and advise, make
44 use of and require the use of all lawful means to suppress, control or otherwise mitigate or reduce
45 the risk of the spread of aquatic nuisances.

46 (f) Except as otherwise authorized by the department, no person shall knowingly or intentionally
47 place, or cause to be placed, an aquatic nuisance in or upon inland waters.

48 (g) Except as otherwise authorized by the department, no person shall place or cause to be placed
49 in or upon inland waters any vessel, boat transporter or any other equipment used in conjunction
50 with such vessel or boat transporter, if the vessel, boat transporter or other equipment has
51 growing thereon or attached thereto an aquatic nuisance, unless the vessel, boat transporter,
52 truck-trailer transporter or other equipment used in connection therewith has been cleaned,

decontaminated or treated to kill or remove the aquatic nuisance in accordance with the department's regulations.

(h) Whoever: (i)(A) violates subsection (f); or (ii)(B) knowingly and willfully resists or obstructs the department and its duly authorized employees or agents from suppressing or eradicating aquatic nuisances; shall be subject to a civil assessment of not more than \$5,000 for each violation; provided, however, that each day that such violation occurs or continues shall be deemed a separate violation; provided further, that the penalty may be assessed by the department and may be recovered in an action brought on behalf of the commonwealth by the attorney general in the superior court; or

(ii) knowingly and willfully violates subsection (g) or, knowingly violates any rule, regulation, order or quarantine issued by the commissioner pursuant to this section shall be subject to the fines and sanctions set forth in section 5D of chapter 90B.

(i) In addition to the foregoing, the commonwealth may bring an action for injunctive relief in the superior court relative to any such violation and the superior court shall have jurisdiction to enjoin such violation and to grant such further relief as it deems appropriate.

(j) Nothing in this section shall be construed to or have the effect of limiting the authority of the division of fisheries and wildlife to manage and regulate inland fisheries resources and other wildlife pursuant to chapter 131 or chapter 131A.

SECTION 2. Section 10H of chapter 21A of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraphs:-

A person notified to appear before the clerk of the district court as provided in section 10G for a violation of section 37B of chapter 21 may so appear within the time specified and pay a fine of \$50.

SECTION 3. Chapter 90B of the General Laws, as so appearing, is hereby amended by inserting after section 5C the following section:-

Section 5D. (a) Whoever violates subsection (g) section 37B of chapter 21 or any rule, regulation order or quarantine promulgated thereunder shall be punished by a fine of not less than \$25 nor more than \$100 for the first violation, by a fine of not less than \$100 nor more than \$500 for a second such violation and by a fine of not less than \$1,000 or imprisonment in the house of correction for not more than 60 days or by both such fine and imprisonment for a third or subsequent such violation.

(b) The director may suspend, revoke or cancel the certificate of number issued to whoever is convicted of violating said section 37B. Such suspension, revocation or cancellation shall be in addition to the criminal penalties contained in subsection (a).

87 SECTION 4. The commissioner of the department of conservation and recreation shall adopt the
88 regulations required by subsection (c) of section 37B of chapter 21 of the General Laws not later
89 than 90 days after the effective date of this act.”.